

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JONATHAN KING MEYER,

Plaintiff,

v.

JOSEPH NATOLE, *et al.*,

Defendants.

CASE NO. 1:14-CV-536

HON. ROBERT J. JONKER

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Kent's Report and Recommendation in this matter (ECF No. 440), Plaintiff's Objections (ECF No. 441), and Defendant Flentje's Response (ECF No. 442). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE, § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; Plaintiff's objections; and Defendants' response. The Court finds the Magistrate Judge's Report and Recommendation, which recommends granting

summary judgment in favor of Defendant Gregory Flentje, M.D., factually sound and legally correct.

Plaintiff objects on several grounds, none of which is persuasive. Plaintiff contends that findings in an earlier Report and Recommendation (ECF No. 237, PageID.3103) contradict the Report and Recommendation now before the Court. This objection fails. The earlier decision centers on a different timeframe and set of issues, and Plaintiff over-reads the findings of the Report and Recommendation now before the Court. Plaintiff's other objections express disagreement and frustration, but nothing in Plaintiff's objections changes the fundamental analysis. Defendant Flentje is entitled to summary judgment in his favor as to Plaintiff's remaining claims alleged in Counts 66, 68, 68, 71, and 72, for precisely the reasons delineated in the Report and Recommendation (ECF No. 440).

ACCORDINGLY, IT IS ORDERED:

1. The Report and Recommendation of the Magistrate Judge is **APPROVED AND ADOPTED** as the opinion of the Court.

2. Defendant Flentje's motion for summary judgment (ECF No. 387) is **GRANTED** as to Plaintiff's remaining claims alleged in Counts 66, 68, 69, 71, and 72.

3. For the same reasons that the Court dismisses Plaintiff's claims, the Court discerns no good-faith basis for an appeal within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997) (overruled on other grounds by *Jones v. Bock*, 549 U.S. 199 (2007)).

This case is **TERMINATED**.

Dated: March 27, 2018

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE